

4538. Adulteration and misbranding of wheat. U. S. * * * v. John M. Frisch et al. (J. M. Frisch & Co.). Plea of guilty. Fine, \$5.
(F. & D. No. 6745. I. S. Nos. 6096-e, 6097-e, 6098-e, 6099-e, and 6100-e.)

On December 20, 1915, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against John M. Frisch and Walter F. Macneal, trading as J. M. Frisch & Co., Baltimore, Md., alleging shipment by said defendants, from the State of Maryland into the State of Florida, on or about March 24, 1913, of two consignments, and on April 2, 1913, of a third consignment, of wheat which was adulterated and misbranded. The wheat in each shipment was labeled: "100 Pounds F Wheat."

Examination of 3 samples from the shipment of April 2, 1913, by the Bureau of Chemistry of this department, showed that they contained, respectively, 51 per cent of rye and 1.5 per cent of other foreign matter; 48 per cent of rye and 1 per cent of other foreign matter; and 51 per cent of rye and 2 per cent of other foreign matter. Adulteration of the wheat in this shipment was alleged for the reason that certain substances, to wit, rye and other foreign material, had been mixed and packed with the article so as to reduce and lower and injuriously affect its quality and strength and had been substituted in part for wheat, which the article purported to be.

Misbranding was alleged in that the following statement appearing on the label aforesaid, to wit, "Wheat," was false and misleading in that it indicated to purchasers thereof, and deceived and misled purchasers into the belief, that the article was composed wholly of wheat, when, in truth and in fact, it was not composed wholly of wheat, but was composed of, to wit, a mixture of wheat, rye, and other foreign material. Misbranding was alleged for the further reason that the article was a mixture of wheat, rye, and other foreign material, and was sold under the distinctive name of another article, to wit, wheat.

Examination of samples from the two shipments of March 24, 1913, by said Bureau of Chemistry showed that they contained, respectively, 49 per cent of rye, and 46 per cent of rye and 1 per cent of other foreign matter.

Adulteration of the article in these shipments was alleged in the information for the reason that a certain substance, to wit, rye, had been mixed and packed with the article so as to reduce, lower, and injuriously affect its quality and strength, and had been substituted in part for wheat, which the article purported to be.

Misbranding was alleged for the reason that the following statement appearing on the label aforesaid, to wit, "Wheat," was false and misleading in that it indicated to purchasers thereof, and deceived and misled purchasers into the belief, that the article consisted wholly of wheat, when, in truth and in fact, it did not, but consisted of, to wit, a mixture of wheat and rye, in the case of one shipment, and a mixture of wheat, rye, and other foreign material, in the case of the other shipment. Misbranding of the article in this latter shipment was alleged for the further reason that it was a mixture of wheat, rye, and other foreign material and was offered for sale under the distinctive name of another article, to wit, wheat.

On December 20, 1915, the defendants entered pleas of guilty to the information, and the court imposed a fine of \$5.

CARL VROOMAN, *Acting Secretary of Agriculture.*